

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, DECEMBER 18, 2002**

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of December 18, 2002 was called to order by Mayor Hitchcock at 7:02 p.m.

Present: Council Members – Beckman, Hansen, Howard, Land, and Mayor Hitchcock

Absent: Council Members – None

Also Present: City Manager Flynn, City Attorney Hays, and City Clerk Blackston

B. INVOCATION

The invocation was given by Pastor Chris Guadiz, Fairmont Seventh Day Adventist Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Hitchcock.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 Proclamations – None

D-3 (a) Gabi del Castillo, member of the Greater Lodi Area Youth Commission, presented the Teen of the Month award to Morgan Vogel from Lodi Academy High School and reviewed the Commission's upcoming events.

D-3 (b) Following introduction and comments by Mayor Pro Tempore Howard, Dana Cowell, Deputy Director in Charge of Planning for District 10 with Caltrans, presented the Caltrans 2002 Excellence in Transportation Award to Public Works Director Richard Prima.

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Council Member Land, Beckman second, unanimously approved the following items hereinafter set forth **except those otherwise noted**:

E-1 Claims were approved in the amount of \$4,554,752.27.

E-2 The minutes of November 19, 2002 (Shirtsleeve Session), December 3, 2002 (Shirtsleeve Session), December 3, 2002 (Special Meeting), and December 4, 2002 (Regular Meeting) were approved as written.

E-3 Received the report of the sale of scrap metal.

E-4 Approved the specifications for annual Tree Trimming Contract (Power Line Clearing) for Electric Utility Department and authorized advertisement for bids.

E-5 Approved the plans and specifications for Stockton Street Parkway Landscape Project from Tokay Street to alley north of Locust Street, authorized advertisement for bids, and authorized the City Manager to award the contract.

E-6 "Approve plans and specifications and authorize advertisement for bids for Turner Road Reconstruction, 200 Feet West of Pleasant Avenue to Highway 99 Overpass" was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**

- E-7 Approved request for proposals for a two-year contract for radio maintenance service for all backbone radio systems and selected emergency and non-emergency radio equipment, and that the bidder's list be restricted to Motorola factory-authorized service shops.
- E-8 Accepted donation of \$2,500 from Lodi High School for improvements to Zupo Field.
- E-9 Accepted improvements under contract for 2001-2002 City-wide Handicap Ramp Retrofit Project.
- E-10 Adopted Resolution No. 2002-252 authorizing the following actions for the Century Meadows Two, Unit No. 4 development:
- Approved the final map and improvement agreement for Century Meadows Two, Unit No. 4, Tract No. 3272, and directed the City Manager and City Clerk to execute the improvement agreement and map on behalf of the City;
 - Authorized the City Manger to execute an agreement for the acquisition of the future Century Meadows Park site (Parcel A); and
 - Appropriated funds for applicable reimbursements.
- E-11 Adopted Resolution No. 2002-253 authorizing the following actions for the Century Meadows One, Unit No. 2 subdivision:
- Approved the final map and improvement agreement for Century Meadows One, Unit No. 2, Tract No. 2786, and directed the City Manager and City Clerk to execute the improvement agreement and map on behalf of the City; and
 - Appropriated funds for applicable reimbursements.
- E-12 Adopted Resolution No. 2002-254 authorizing the following actions for the Century Meadows Three, Unit No. 4 subdivision:
- Approved the final map and improvement agreement for Century Meadows Three, Unit No. 4, Tract No. 2630, and directed the City Manager and City Clerk to execute the improvement agreement and map on behalf of the City; and
 - Appropriated funds for applicable reimbursements.
- E-13 Adopted Resolution No. 2002-255 authorizing the following actions for the Woodhaven Park, Unit No. 3 subdivision:
- Approved the final map and improvement agreement for Woodhaven Park, Unit No. 3, Tract No. 3187, and directed the City Manager and City Clerk to execute the improvement agreement and map on behalf of the City; and
 - Appropriated funds for applicable reimbursements.
- E-14 Authorized the City Manager to enter into a professional services agreement with PMC Consulting for the preparation of an Environmental Impact Report to analyze impacts associated with a proposed commercial center at the southwest corner of Lower Sacramento Road and Kettleman Lane.
- E-15 Adopted Resolution No. 2002-256 authorizing the City Manager to execute an agreement with Tokay Radio Control Modelers for use of Pixley Park.
- E-16 Adopted Resolution No. 2002-257 authorizing the City Manager to execute an agreement with the Boosters of Boys and Girls Sports (BOBS) Organization for concession operations at the Grape Bowl Stadium, Kofu, Salas, and Zupo Parks and other locations for BOBS sponsored events.
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ITEM REMOVED FROM THE CONSENT CALENDAR

- E-6 "Approve plans and specifications and authorize advertisement for bids for Turner Road Reconstruction, 200 Feet West of Pleasant Avenue to Highway 99 Overpass"

Council Member Hansen asked whether a traffic signal at the entrance of River Pointe Circle would be part of this project.

Public Works Director Prima replied that it had been considered previously; however, a signal was not indicated. Restriction of turns would improve safety, but would likely not be received favorably by the residents.

Council Member Hansen stated that he would like to know if it would be feasible to have a signal placed at that location.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Land second, unanimously approved the plans and specifications for Turner Road Reconstruction, 200 feet west of Pleasant Avenue to Highway 99 Overpass, and authorized advertisement for bids.

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

None.

G. PUBLIC HEARINGS

- G-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hitchcock called for the public hearing to consider appeal from Neumiller & Beardslee, on behalf of Legends Unlimited, regarding the Planning Commission's decision to revoke Use Permit No. 99-02 for Legends Unlimited.

Community Development Director Bartlam informed Council that Neumiller & Beardslee submitted a letter (filed) requesting that the subject public hearing be continued to January 15, 2003.

MOTION:

Mayor Pro Tempore Howard made a motion, Land second, to continue the public hearing to consider the appeal regarding the Planning Commission's decision to revoke Use Permit No. 99-02 for Legends Unlimited to January 15, 2003.

DISCUSSION:

Mayor Pro Tempore Howard commented that she is pleased to know that another business is interested in this location.

Council Member Land noted that Legends Unlimited is closed and the sale is in escrow.

VOTE:

The above motion carried by a unanimous vote.

- G-2 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hitchcock called for the public hearing to consider resolution confirming the 2002/2003 Annual Report and levy assessment for the Downtown Lodi Business Improvement Area No. 1.

Tony Goehring, Economic Development Director, recalled that the Downtown Lodi Business Partnership presented its annual report to Council on November 20, at which time the Council accepted the report and set the public hearing. Mr. Goehring explained

that according to the laws under which a Business Improvement District (BID) is formed, the membership is given an opportunity at the end of each calendar year to protest the organization either in writing or by coming before the Council at the public hearing. Tonight's hearing is to accept protests, confirm the annual report, and set the levy of assessments. Mr. Goehring reported that no written protests have been submitted.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

Council Member Hansen stated that there had been articles in the newspaper and concerns about the Downtown Business Association and the accounting of money. He noted that the business *Mocha My Day* has refused to pay its assessment.

Lew VanBuskirk, Executive Director of the Downtown Lodi Business Partnership (DLBP), reported that through a court judgment against the business, the 2000-01 assessment was collected; however, the 2002 assessment remains unpaid. He stated that BIDs typically have a 5% to 6% delinquency rate.

Council Member Beckman recalled that concerns regarding assessment equity issues were raised previously.

Mr. VanBuskirk acknowledged that discussion took place last year regarding boundaries and the fee structure. The DLBP board decided to address the matter in 2003 with a joint committee. The process will include a vote of the membership to approve any assessment or boundary changes.

Mr. Goehring commented that there were fewer than 2% protests when the BID was formed in 1997. Since that time there has been only one protest at the annual hearings.

MOTION / VOTE:

The City Council, on motion of Council Member Land, Hansen second, unanimously adopted Resolution No. 2002-258 confirming the 2002/2003 Annual Report for the Downtown Lodi Business Improvement Area No. 1 and levy of assessment.

H. COMMUNICATIONS

H-1 Claims filed against the City of Lodi – None

H-2 Reports: Boards/Commissions/Task Forces/Committees – None

H-3 The following postings/appointments were made:

- a) The City Council, on motion of Council Member Land, Beckman second, unanimously directed the City Clerk to post for the following vacancy and expiring term:

Lodi Planning Commission

John Beckman

Term to expire June 30, 2004

Site Plan and Architectural Review Committee

Keith Selleseth

Term to expire January 1, 2003

- b) City Clerk Blackston provided the City Council with a report on the City Council vacancies and expiring terms on various boards, commissions, and committees on which the Council serves.

City Manager Flynn stated that the Smart Growth Task Force under the auspices of the San Joaquin Partnership should be added to the list of vacancies.

Mayor Pro Tempore Howard noted that the San Joaquin County-Wide Library Operations Task Force meets on the first Wednesday of each month, which conflicts with regular Lodi City Council meetings.

H-4 Miscellaneous

- a) City Clerk Blackston presented the cumulative Monthly Protocol Account Report through November 30, 2002.

I. REGULAR CALENDAR

I-1 "Update on the State budget"

City Manager Flynn stated that the Governor is anticipated to publish the State's 2003-04 budget on January 10. He reported that throughout the country interest rates and inflation have been low. Stock market prices are higher this December than they were a year ago. Recent reports from CalPERS indicate that its earnings are ahead of the national average. Gross domestic product grew through the third quarter of this calendar year and has been running at 4%. Mr. Flynn stated that two of the highest sales generators in Lodi informed him that they are matching last year's sales and one anticipates hiring new employees. There are industries in Lodi who plan to lay off between 60 to 100 employees in the near future. Capital spending rose nationally and throughout northern California, with the exception of the energy sector. Discussions with CalPeak have taken place about building a new electric plant in Lodi. Housing continues to grow in the community.

In reply to Council Member Hansen, Community Development Director Bartlam reported that the number of residential permits issued is stable.

Council Member Land reported that revenue from property tax is increasing. Homes in southwest Lodi are ranging from \$300,000 to \$400,000.

Mr. Flynn continued his report noting that the technology sector in northern California has been weak. Business investment has been lagging. The State deficit is now estimated at \$35 billion. There is general fear of terrorism and war. The Bush administration is considering further personal tax cuts, pension reform, business tax breaks, and worker relief. Budget cuts impacting the City of Lodi include \$250,000 in after school programs and transportation funds.

In response to Council Member Hansen, Mr. Flynn acknowledged that a mixed message is being sent by the State, which is simultaneously taking redevelopment funds away and requesting cities to increase stock in low and moderate housing.

Deputy City Manager Keeter reported that the Governor will likely be proposing tax increases. Ten billion dollars in cuts over the next 18 months are anticipated, which include \$3.4 billion from the current budget and savings and cuts of \$7 billion in the coming budget year. Reductions include deep cuts to education, health, welfare services, and the state's payroll. Of the proposed \$10.2 billion in cuts, \$1.43 billion will directly affect cities throughout California. The original intent of the Public Library Foundation funding was to cover 10% of libraries operating budgets. The Lodi library received \$17,000 from the State in 1992-93, \$89,000 in 2001-02, and this year submitted a reimbursement application for \$52,000 in 2002-03. Library Services Director Martinez has expressed concern about whether or not the City will receive the funding. Office of Criminal Justice Planning Grants are also being cut; however, the City does not receive funds from these grants. There is a \$90 million proposal in cuts statewide to cities and counties for elimination of local street and road funding, as well as the elimination of second, third, and fourth quarter apportionments to local agencies for street and road maintenance. The impact to Lodi's Streets Account may be a reduction of \$120,000. Ms. Keeter noted that these funds are only used in excess of normal operations. A suspension of the 2003-04 general fund transfer to the transportation investment fund for the traffic congestion relief program is anticipated and could affect some of the regional projects such as Arch Road.

In answer to Mayor Hitchcock, Mr. Flynn suggested that a 'wait and see' approach be taken, rather than providing a roadmap to the State about ways the City can cut its budget in anticipation of what may happen as a result of the budget deficit. He pointed out that

asking staff to consider ways of cutting back over a speculative number could cause unnecessary concern to employees and citizens.

Mayor Pro Tempore Howard noted that initial cuts have mainly been in the areas of after school programs and health care services. She encouraged continued volunteerism and suggested that family members, neighbors, and faith-based organizations could help to cover these areas.

Council Member Land remarked that the City's budget is sound. Tax revenues have increased 1.6%. Six years ago the City's reserve was at 8% and it is now at 12.3%. He supported the City Manager's recommendation to "stay the course" until specifics are known.

Mayor Hitchcock stated that in her position as president of the League of California Cities Central Valley Division, she has spoken with other elected officials and discovered that they are taking a proactive approach to potential budget cuts. Semi hiring freezes have been implemented. The city of Stockton expects that Community Oriented Policing Services funding will be taken away and are considering transferring the school resource officers back into other positions. The city of Fairfield has built up a 32% reserve in anticipation of insurance and CalPERS increases.

MOTION/ VOTE:

No action required by Council.

- I-2 "Introduce ordinance amending Title 3, Chapter 3.12 'Transient Occupancy Tax,' by repealing Section 3.12.035 Surcharge"

City Attorney Hays stated that due to failed Measure U at the November 5 election, the City is now in the position of eliminating a surcharge that has been on the transient occupancy tax. This will move the City's occupancy tax back to 6%.

Mayor Hitchcock asked whether this action is required.

Mr. Hays replied that failure to do so might result in a lawsuit that could not be won.

In response to Mayor Hitchcock, City Manager Flynn stated that staff would wait for direction from Council as to whether to move forward on bringing this matter back at a future election. He suggested that before it is considered, a meeting should take place with interested parties to determine whether there is sufficient advocacy in the community. He reported that the annual impact to the City of lowering the occupancy tax to 6% would be \$150,000.

Council Member Hansen voiced support for determining the feasibility and interest of revisiting this issue.

Council Member Beckman asked whether quasi-public funds of the Downtown Lodi Business Partnership and Conference and Visitors Bureau could be used to promote a ballot initiative.

Mr. Hays replied that segregation of funds might need to occur; however, he did not believe it was clear that a funding mix prohibited campaign support.

MOTION / VOTE:

The City Council, on motion of Council Member Land, Beckman second, unanimously introduced Ordinance No. 1727 amending Title 3, Chapter 3.12 "Transient Occupancy Tax," by repealing Section 3.12.035 Surcharge.

- I-3 "Impact Mitigation Fee Program Annual Report"

Public Works Director Prima acknowledged that he had been remiss in making formal reports on the Impact Mitigation Fee Program. He stated that tonight's presentation constitutes a formal report, which is required to be done within six months of the closing

of the fiscal year. He explained that there is a requirement that the information be available 15 days prior to the noticed meeting at which it occurred. The matter will be brought back to Council at a future date for final public comment.

Wally Sandelin, City Engineer, reported that Government Code 66000 et seq. requires an annual report to the Council that outlines the current impact fees, the beginning and ending fund balance in each of the fee accounts, annual revenues, and expenditures for projects. Referencing Exhibit A, which was distributed to Council on a "blue sheet" (filed), Mr. Sandelin explained that it is a summary of the activity in each impact fee fund account. Changes on Exhibit A occurred in the water fund, the streets regional fund, fire fund, and parks and recreation fund. Changes in the water, streets, and fire funds resulted from outstanding loans that exist in those funds and how they were treated in the beginning fund balances. At this time there is a total fund balance in the fee program of \$4,750,220. He explained that interfund transfers typically comprise the transfer of funds from the impact fee program to other funds in the City to cover labor and material costs incurred to the benefit of the projects in the impact fee program. Exhibit B (filed) provides a list of project expenditures for fiscal year 2001-02 and a brief description of what projects those funds were spent on. Exhibit C (filed) provides a comprehensive listing of project expenditures from the inception of the fee program to June 30, 2002.

Mayor Pro Tempore Howard pointed out that under the category of streets regional it went from a positive value to a negative.

Mr. Sandelin explained that it was a typographical error, i.e. on the original sheet it should also have been a negative.

In reply to Council Member Beckman, Mr. Sandelin stated that the sale of G-basin export of \$24,000 represents the sale of dirt from the basin.

In response to Council Member Hansen, Mr. Sandelin reported that the fire account has a loan set up between the water fund and the fire fund. There is a payment schedule established wherein as fire impact fees are collected they are repaid to the water fund. The negative fund balance in streets regional is principally attributed to an outstanding loan from the San Joaquin Council of Governments (SJCOG) Measure K program. The loan amount is currently \$627,000 and is repaid at the rate of \$103,000 per year.

City Manager Flynn added that impact fees are treated as a single fund and reiterated that there is currently an overall balance of \$4.75 million.

Mayor Hitchcock asked staff to submit a report to Council identifying impact mitigation fee revenues year by year.

In reference to the streets regional program loan, Mr. Sandelin explained that it was an \$800,000 (plus interest) loan by SJCOG made to the Highway 99 and Kettleman Lane Interchange Project. The City pledged to repay them over a ten-year period out of revenues from the impact fee program.

Mr. Prima added that the Interchange Project was in excess of \$5 million. The project in the fee program was not allocated at full cost. He explained that when a project is listed in the fee program, needs for the project under current conditions and how much is due to growth, needs to be considered. The Interchange Project was only to be partially funded by impact fees. It was assumed that there would be money from the State and Measure K through the Congestion Relief Program.

Mr. Sandelin noted that a second phase of the Interchange Project is planned and is estimated to cost \$4.9 million.

In response to Mayor Hitchcock, Mr. Sandelin reported that within the impact mitigation fee program there has been one loan in the amount of \$1,583,000 from the water to the

fire fund to construct Fire Station #4 and the external loan through SJCOG, as reported previously.

Mr. Prima clarified that interfund transfers are transfers from the impact fee fund back to the general fund to cover costs of engineering and program administration.

Mr. Sandelin noted that the code requires an annual report to show how funds are being expended and that a good faith effort is being made to account for the monies. There are not strict accounting requirements that hold the City to the percentage or dollar figures in the fee program as adopted by Council.

Mr. Flynn stated that an annual cost allocation plan, accepted by the state and federal governments, is prepared and brought to Council as part of the budget process. Most grant agencies allow an administrative charge that includes engineering and design costs.

Mayor Hitchcock asked how much was collected in the fire fund since its inception and how it arrived at a \$300,000 deficit.

Mr. Prima indicated that he would provide Council with the information. He noted that the fire fee was one of the lowest and the cost of the station was significantly underestimated in the original fee program.

Mr. Sandelin added that the fire fund balance in October 2001 was \$324,000 and the total cost of Fire Station #4 including design was \$1.98 million.

Mayor Hitchcock emphasized the importance of reviewing the impact mitigation fees annually to ensure there is a sufficient amount of money in the program.

In response to discussion regarding the possible need for a fifth fire station, Fire Chief Pretz reported that the Fire Department's response time is four minutes, and under the current general plan, Lodi has a sufficient number of fire stations to meet that criteria. He indicated that the Fire Department would be updating its plan in 2003 and bringing a recommendation to Council regarding future fire station needs.

Mayor Pro Tempore Howard recommended that the Fire Department provide a report to Council regarding its goals and projections at the time this matter is brought back to Council for action, as it may impact the fee program.

MOTION / VOTE:

No action required by Council.

- I-4 "Approve suspending negotiations with the Mokelumne Rural Fire District for fire protection services"

Fire Chief Pretz recalled that he brought a request to Council in June 2002 from the Mokelumne Rural Fire District regarding a potential contract for services. District Fire Chief Dan Leary has now suggested that negotiations cease until the 2003-05 City budget is approved.

City Manager Flynn noted that a year ago the District's tax measure failed and it was concerned about how to pay for services. Mr. Flynn stated that the City is not ready to move forward on a contract for services at this time due to more pressing issues.

Mayor Pro Tempore Howard agreed with the proposal to suspend negotiations, recognizing that there are other issues that are a priority for the City.

Council Member Hansen voiced opposition to the concept of a contract for services between the City and the District. He believed that the District would likely be the only one benefiting from such a contract, as expanding Lodi's response area could negatively

impact the level of service in the City. He emphasized the importance of keeping services in Lodi a top priority.

Council Member Land thanked Mayor Hitchcock and Mayor Pro Tempore Howard for serving on the Mokelumne Rural Fire District Task Force. He asked what effect suspension of negotiations would have on the aid agreement and \$25,000 transfer that the City gives the District.

Chief Pretz answered that the City has a mutual aid agreement with the District and there would be no effect on the transfer, as it is part of the development agreement.

Council Member Land stated that he was surprised the District had not renegotiated an automatic aid agreement considering that it closed down its Victor station and is now located even further away from the Mondavi warehouse.

In reply to Mayor Hitchcock, Chief Pretz reported that over the past six months the District has stabilized its resources and revenues.

PUBLIC COMMENTS:

- Sandy Wichman, President of the Lodi Professional Firefighters 1225, stated that the line personnel are not in favor of taking over the Mokelumne Rural Fire District. If Station #2 was moved to Victor, then resources would be pulled away from the southeast side of Lodi. He suggested that such an agreement would also have a negative financial impact on the Lodi Fire Department and hinder the proposed firefighter paramedic program.

MOTION / VOTE:

The City Council, on motion of Council Member Beckman, Howard second, unanimously approved staff's recommendation to suspend negotiations with the Mokelumne Rural Fire District for fire protection services.

- I-5 "Review Breakaway Sports donated items presentation and authorize advertisement for bids for soccer field project facility installation"

Parks and Recreation Director Baltz recalled that the City accepted donated items from Breakaway Sports through a letter of understanding, which required that the City utilize or return them within two years. Staff's recommendation is to utilize the two soccer field surfaces, the dasher board system and the nets. The project calls for both fields to be lighted and one field to be covered. Referencing the "blue sheet" staff report (filed), Mr. Baltz reported that the project is estimated at \$500,000, which includes weatherizing both modulars and covering one field. The facility would have a six-foot fence. The City has storage of the donated items in a Galt warehouse at no cost through February. It will require 5,500 square feet of space to continue to store all the items.

In reply to questions posed by Mayor Pro Tempore Howard, Mr. Baltz clarified that it is not a completely closed structure. The metal roof will be 22 feet at its peak and go down to eight feet. Weatherproofing the modular buildings is estimated at \$20,000 each and relocation and set up costs would be \$10,000. The soccer fields are indoor/outdoor turfs and have a 10- to 12-year life. The City is the third owner of the fields, which are now six years old.

Mayor Pro Tempore Howard stated that she would like to have an agreement between the City and Dave Vacarezza regarding the unused donated items.

In answer to Council Member Hansen, Mr. Baltz reported that personnel for the facility will include a referee coordinator for 320 hours at \$11 per hour, a soccer supervisor for 450 hours at \$12 an hour, and a maintenance worker for 1,650 hours at \$11 per hour. Utilities are based on a rate of \$5.50 per hour. Over 130 parking spaces will be lost. Lodi Unified School District and the Grape Festival General Manager have been notified.

In response to Council Member Land, City Manager Flynn reported that the cost of the project will require general fund, fund balance at this time; however, it may be possible to

use Certificate of Participation funds. He pointed out that fees to use the facility will cover all operating expenses and will generate \$7,500 a year to be paid back to the general fund.

Mr. Baltz stated that specifications and construction documents are not yet ready for the project. He estimated that, if approved, construction would begin in four months and last approximately 90 days.

In reply to Council Member Hansen's concern regarding lighting impacts to the neighborhood, Mr. Baltz stated that staff will be following up with notification to affected residents.

Mayor Hitchcock expressed concern about expending general fund monies on this project considering the State's budget deficit. She suggested delaying action on the matter until budget impacts are known.

Mayor Pro Tempore Howard asked Dave Vacarezza whether he was in agreement with staff's recommendation to amend the contract so that all of the remaining donated items are the property of the City to either utilize or sell with no time deadline.

Mr. Vacarezza agreed, with the exception of one of the basketball courts, which someone else is interested in. He stipulated that any proceeds from the sale of the equipment should go toward recreation projects. The warehouse that the equipment is currently being stored in free of cost through February has been sold; however, the buyer is willing to extend the lease to the City for six months.

Council Member Beckman asked whether the decision to close Breakaway Sports was due to the sale of the building, to which Mr. Vacarezza answered in the affirmative.

Mayor Pro Tempore Howard stated that it was her understanding from previous discussions that Breakaway Sports was not recovering its full cost.

Council Member Beckman concurred with Ms. Hitchcock's earlier comments related to the budget. He recommended that the matter be continued to the second regularly scheduled City Council meeting in January.

Council Member Land replied that the State would not make retroactive budget cuts to cities and effects would not be seen until the fourth quarter of next year.

PUBLIC COMMENTS:

- Elaine Dornton stated that she is an indoor soccer participant. She believed that the budget presented by the Parks and Recreation Department for the proposed soccer facility was realistic. Fees in Sacramento for eight-week sessions are \$525, which amounts to \$50 per person, with an additional referee fee. She recommended that there be a secure place for observers and restrooms nearby.
- John Johnson believed that if City budget cuts are made it would negatively affect Parks and Recreation and the Library. He noted that if the soccer project is constructed it will have to be maintained, and questioned whether maintenance of other parks and recreation facilities would suffer because of it. He encouraged Council to prioritize all the parks projects with interested parties.
- Ernesto Farias spoke in support of the soccer field project and believed it would be a great opportunity for Lodi. He stated that he is a national coach and played soccer professionally in Mexico. He served as technical director for the Breakaway Sports Center.
- Bob Johnson, Chairman of the Parks and Recreation Commission, reported that the Commission voted 5-0 to support the soccer field project. He stated that utilization of

the facility could also include volleyball, coaches and referees clinics, band practices, flag football, additional tot programs, etc.

In answer to Council inquiries, Mr. Johnson stated that soccer has the highest number of participants of any sports program in Lodi. The Commission's priorities are DeBenedetti Park, the Aquatics Facility, and the Indoor Sports Center. The soccer field project is being brought forward because it was a unique opportunity that arose through a donation of the equipment.

- Rick Engelhardt stated that he coached a soccer team at Breakaway Sports. He believed this to be a "golden opportunity" for the City and urged Council to approve the request.
- Steve Pechin also spoke in support of the project and believed that it would be money saved, not spent.

MOTION:

Council Member Land made a motion, Howard second, to authorize preparation of specifications and construction documents and advertisement for bids for soccer field project facility installation.

DISCUSSION:

Mayor Hitchcock stated that keeping in line with her perspective of being conservative, and particularly with the current budget uncertainties, she would vote against the motion.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Hansen, Howard, and Land

Noes: Council Members – Beckman and Mayor Hitchcock

Absent: Council Members – None

VOTE TO CONTINUE WITH THE REMAINDER OF THE MEETING

Discussion ensued regarding the length of the meeting and options for the remaining items.

The City Council, on motion of Council Member Land, Hansen second, unanimously voted to continue with the remainder of the meeting following the 11:00 p.m. hour.

RECESS

At 11:28 p.m., Mayor Hitchcock called for a recess and the City Council meeting reconvened at 11:43 p.m.

I. REGULAR CALENDAR (Continued)

NOTE: The following items were discussed and acted upon out of order.

- I-10 "Adopt resolution authorizing the City Manager to execute lease amendment for Lodi Station North Annex with Cheryl Lefebvre, dba Lodi Greyhound and Western Union"

Public Works Director Prima reported that the north annex of the Lodi Station on Sacramento Street was established to accommodate the needs of Greyhound and the transit employees. The City entered into a three year lease with Greyhound representative Cheryl Lefebvre for a monthly rent amount of \$800, with an escalator to \$825 and \$850. Ms. Lefebvre soon fell behind on the rent payments. Mr. Prima acknowledged that he had not been as diligent on following through with this matter as he should have been. At a previous closed session meeting Council directed staff to reduce the scale of the space allocated to Greyhound. Mr. Prima explained that the original lease charged the tenant for square footage that is common space and not needed for Greyhound activity. He stated that if staff were to go back from the beginning on the

reduced square footage, the rent would have been half of what it was at that time and following through with those escalators, an amount would be due that is substantially less than what is currently due under the terms of the old lease. Mr. Prima suggested using that scenario, which would result in a balance due of \$1,400 and forgiving over \$10,000 in back rent that has not been paid.

City Attorney Hays clarified for Council Member Hansen that the rate Ms. Lefebvre currently would be paying is \$424, plus the surcharge of \$280 for five months, because the term of the lease is in its third year.

Mayor Pro Tempore Howard felt that the tenant should pay the City for all prior months based on the original rate the space was contracted for, and once the lease amendment is executed, then the new fee structure would go into place.

In answer to Mayor Hitchcock, Mr. Prima recalled that, originally, the direction was to get market rate on a per square foot basis, which at that time was 81 cents. Ms. Lefebvre was behind in the rent for a year before the matter was taken to Council in closed session. The tenant has requested that the City lower the rent.

Ms. Lefebvre reported that she paid \$500 a month in rent before moving to the Lodi Station North Annex. She stated that 80% of her customers do not speak English, which made it difficult for them to find the new location. She typically earns less than \$40,000 a year. She now has one employee and is open seven days a week, nine hours a day. She had many meetings with former Transportation Manager Carlos Tobar and the manager of the corporate office of Greyhound about not being able to afford the rent.

In response to Council inquiries, Ms. Lefebvre explained that she makes very little income during the first four months of the year. During her slowest month, her income amounts to \$1,200. She estimated her 2002 annual income to be in the range of \$32,000 to \$35,000. Since June she has been paying \$400 a month in rent.

Council Member Beckman stated that he was disturbed it took this long for staff to bring the matter to Council, as it is now \$14,000 in arrears.

Mayor Pro Tempore Howard stated that under Ms. Lefebvre's circumstances, she did not see how a month to month agreement would work and suggested that the payment due be extended, and have a one time collection at the end of the year.

Council Member Land believed that Greyhound bus service was important to the community and recommended the City Manager work with Ms. Lefebvre to ensure monthly rent payments are kept current and allow the \$1,400 to be paid during later months when her revenues are higher.

In response to Mayor Hitchcock, Mr. Prima reported that he had attended one of the meetings with a Greyhound representative who indicated that Ms. Lefebvre's franchise was at the highest level of its commission percentage. He believed that the income figures Ms. Lefebvre presented were accurate and that Greyhound stands behind them.

Mayor Hitchcock felt that the lease agreement should be for no more than one year and if the rent is not paid the City should look at getting another tenant.

Ms. Lefebvre replied that if she were not to operate the business, Greyhound would not get another agent, they would close the station. She surmised that they would likely make it a flag stop on a corner and the City would have the same problem it is having now with Amtrak. She reported that Amtrak customers walk through her doors 40 times a day and are angry that they cannot get information on the train schedule.

Mayor Hitchcock asked the City Manager to see that procedures are implemented to ensure that the rent does not get behind in the future.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Land second, adopted Resolution No. 2002-259 authorizing the City Manager to execute a lease amendment for Lodi Station North Annex with Cheryl Lefebre, dba Lodi Greyhound and Western Union, and extending the lease for a period of 12 months; directed staff to bring the matter back to Council at the conclusion of the lease for an update on the status of the business; and directed the City Manager to negotiate terms with Cheryl Lefebre to recover the amount of rent that is in arrears. The motion carried by the following vote:

Ayes: Council Members – Beckman, Hansen, Land, and Mayor Hitchcock

Noes: Council Members – Howard

Absent: Council Members – None

- I-11 “Adopt resolution approving title change for the position of Animal Services Officer to Animal Services Supervisor and the new salary range”

Amy Flores, Management Analyst Trainee, reported that in accordance with the City's rules for personnel administration the Human Resources Department updated the subject job specification and conducted a salary survey and found that within the survey cities, the Animal Services Officer was more closely related to those cities that have an Animal Services Supervisor. The position had evolved over the years due to changes in laws and growth in the community. If approved, the classification of Animal Services Officer will be deleted. Ms. Flores stated that this change is currently in this year's budget.

In response to Mayor Hitchcock, Ms. Flores explained that the delay in bringing this forward was due to the Human Resources Department working on other projects that were in the budget for reclassification and conferring with the Police Department on this matter.

City Manager Flynn noted that a 15% increase was originally budgeted. The salary survey showed a 5% increase and the recommendation is now for 7.8%.

Police Captain David Main believed that it would be beneficial to have someone on site at the Animal Shelter as a director supervisor.

Mayor Hitchcock asked whether the salary increase would be retroactive back to July 2002, as it appeared the delay was the City's fault.

Mr. Flynn stated that unless Council directs otherwise, as a matter of administrative policy retroactive pay is not done.

MOTION #1:

Council Member Hansen made a motion, Land second, to adopt Resolution No. 2002-260 approving the title change for the position of Animal Services Officer to Animal Services Supervisor and the new salary range as recommended, retroactive to July 1, 2002.

DISCUSSION:

Mayor Pro Tempore Howard and Council Member Beckman disagreed with the recommendation to make the salary increase retroactive; however, they were in support of the title change and salary increase.

Mayor Hitchcock believed that by making the salary retroactive it would set a precedence, which she was opposed to.

MOTION #1 WITHDRAWN:

Council Member Hansen, Land second, withdrew the motion.

MOTION #2/ VOTE:

The City Council, on motion of Council Member Hansen, Beckman second, unanimously adopted Resolution No. 2002-260 approving title change for the position of Animal Services Officer to Animal Services Supervisor and the new salary range as follows:

A	B	C	D	E
\$2,847.37	\$2,989.74	\$3,139.22	\$3,296.19	\$3,461.00

- I-13 "Discussion and appropriate action regarding Century Meadows One, Unit No. 3 Development Impact Mitigation Fees"

Mayor Hitchcock recalled that this matter had previously come before the Council. At that time the applicant had asked to extend his current development impact mitigation fees until the next year and the Council denied the request. The applicant is now requesting to prepay the fees, though the map is not yet ready.

City Manager Flynn and Public Works Director Prima agreed with Ms. Hitchcock's summation.

Mr. Prima stated that when the Council adopted the impact fees increase in October 2001 there was set in place by resolution a window of time by which the old fees and procedures could be followed. Impact fees are now paid in part at the final map stage and the second payment is made when the project is completed and it is brought back to Council for acceptance. Under the new program the fees are deferred until the acceptance time.

Problems related to street right of way, easements, and the lift station delayed the Century Meadows development along Harney Lane between Mills Avenue and the canal. The developer was led to believe if they paid their impact fees they would be covered under the old program. Subsequently staff realized that was not correct and asked all affected developers to get their maps to the City before the end of the year. Mr. Prima stated that there are no other developers with pending projects (aside from the Century Meadows One matter under consideration) that will come forward with a request to prepay their fees. He pointed out that a similar situation occurred in 1992 when the storm drain fees were raised significantly and Council adopted a resolution allowing the fees to be prepaid on projects that were underway at the time the fees were increased. Due to this precedence, as well as the original miscommunication from staff to the developer, Mr. Prima believed the request was justified. He reported that the amount of money related to this matter is \$266,000.

Mayor Pro Tempore Howard disclosed that she met with Dave Williams and Steve Pechin prior to the meeting. She noted that the map is incomplete at this time and is on its way to the County for approval. She asked whether the County could make modifications to the map that would impact the fees.

Mr. Prima explained that the County only approves the map for technical accuracy so it would not effect the fees.

Council Member Hansen disclosed that he too had met with Dave Williams and Steve Pechin. He believed that the developer was not given adequate notice by staff prior to the deadline to submit the map.

Dave Williams recalled that the vesting tentative map was approved in April 1999. He described the project delays related to lot line adjustments, easements, and underground utilities. He pointed out that just two weeks ago Council took action related to the sewer lift station, which affects this project. Century Meadows One, Two and Three are now ready to proceed.

Steve Pechin, civil engineer with Baumbach and Piazza, stated that the City could not process any agreements on the associated projects until the sewer lift station matter was resolved. The developer had expected to process Century Meadows One, Unit 2 in the first half of the year and Unit 3 in the last half. When it became apparent in April that problems were going to delay the project, City staff indicated that the developer could prepay the fees prior to the end of the year if the project was not processed through to the point that the map would be accepted by Council. The project was phased at the tentative map stage with 57 lots in the first phase, 76 in the second, and a third phase was planned to be constructed in mid to late 2003. On November 20, Mr. Pechin received a call from City staff explaining that the plans and map would have to be processed prior to the end of the year to be considered under the old fee schedule. Mr. Pechin pointed out that it is impossible to get a 76 lot subdivision completed, to the County, and processed in less than a month's time. He reported that the map has now been submitted to the County with all the owners' signatures. The plans have been submitted to the City for plan check for the subdivision. He estimated that the County will take 45 days to process the map.

Mr. Prima noted that a related factor to this project is street widening necessary for a crossing at Harney Lane near the Woodbridge Irrigation District canal, which will likely not take place until next winter and would then require a supplemental agreement.

Council Member Land disclosed that he met with Dave Williams and Steve Pechin prior to the meeting. He believed that due to communications with City staff, the developer was under the impression that they could prepay the development impact fees.

MOTION / VOTE:

The City Council, on motion of Council Member Land, Hansen second, unanimously adopted Resolution No. 2002-261 approving the request of Century Meadows One, Unit No. 3 developers to prepay the development impact fees.

- I-8 "Adopt resolution approving participation in Mokelumne River Water and Power Authority Project Planning (\$150,000)"

Mel Lytle, San Joaquin County Water Resources Coordinator, stated that the Mokelumne River Water and Power Authority was established in 1990 to develop water and hydropower on the Mokelumne River. The directors are the San Joaquin County Board of Supervisors. The Mokelumne River Regional Water Storage and Conjunctive Use Project would supply users within San Joaquin County through new surface water supply, as well as conjunctive use projects in the northeast part of the county. The northeastern part of San Joaquin County has an over-drafted groundwater basin due to historic pumping from agriculture as well as urban users. Because there is a depressed aquifer, there is also a reservoir where water can be banked for future dry years. The concept of conjunctive use is to take water when it is available during wet years and bank it into the ground. The potential yield for this project is 100,000 acre feet of water. One acre foot of water equals 369,000 gallons. There is also potential for power generation up to 85 megawatts.

The initial water right and the Federal Energy Regulatory Commission (FERC) filing was made in 1990. Pacific Gas and Electric and the East Bay Municipal Utilities District have studied potential sites along the Mokelumne River, such as the Middlebar site, since 1926. The Authority is currently working to secure the water right and FERC application. This water right would be the last chance to appropriate water on the Mokelumne River. The Authority has developed a policy committee that would look at the option of including other membership to contribute financially as well as to receive benefit from the project once it is built. Mr. Lytle outlined the following concepts:

- Concept A – Middlebar reservoir upstream of Pardee Dam;
- Concept B – Duck Creek facility, which is an off-river reservoir;
- Concept C – Lower Mokelumne diversion facilities.

Mr. Lytle stated that the water right application allows for direct diversion anywhere along the lower Mokelumne River below Camanche Dam to Interstate 5. In October 2002 the Authority released a Request for Proposals for this project to begin the initial engineering feasibility and Environmental Impact Report (EIR) process. Consultant interviews took place on November 6. The scope of work consists of the following phases:

1. Initial reconnaissance study;
2. Complete feasibility study;
3. Section 404B1 study required by the Army Corps of Engineers;
4. Formal programmatic EIR work.

Mr. Lytle reported that the next step would be to go to a hearing with the Department of Water Resources to complete the water right application and FERC application if there was going to be a power generation component. Once the water right is granted, they will proceed with 30% engineering plans, a project level EIR, permitting, final design, and project construction.

In June 2002 San Joaquin County supported a contribution of \$175,000 and in November Stockton agreed upon a \$175,000 contribution. The request being considered tonight is for Lodi to contribute \$150,000. Mr. Lytle stated that the total contribution of \$500,000 would carry them for six months of the project. The total project cost is \$3 to 5 million and will range over four years, with water delivery anticipated in 2012.

Mayor Pro Tempore Howard noted that some of the reservoirs referenced are located in Sacramento and Calaveras Counties and questioned why they are not participants of the project.

Mr. Lytle explained that the project is designed to benefit San Joaquin County and County users. Much of the initial cost will be paid by local agencies with additional support coming through federal and state appropriations.

Mayor Pro Tempore Howard noted that, if approved, Lodi's contribution will be coming from the water fund and asked whether this money is needed for the water and sewer line replacement project.

Mr. Prima replied that the City is at a point where it can adjust the scale of the project to make room for this level of expenditure. In addition, he commented that there potentially will be opposition to this project from other water interests throughout much of the state.

In response to Mayor Hitchcock, Mr. Lytle reported that a meeting of the policy committee will take place at the end of January to amend the Joint Powers Authority process to include new members so they have definite voting powers.

MOTION / VOTE:

The City Council, on motion of Council Member Beckman, Hansen second, unanimously adopted Resolution No. 2002-262 approving participation in the Mokelumne River Water and Power Authority's project planning effort and appropriated \$150,000 from the Water Fund for the project.

- I-7 "Adopt resolution acknowledging limited commercial vehicle parking within the City will continue to be permitted"

City Attorney Hays explained that Ordinance 1697 contains a sunset provision with regard to the ability of commercial vehicles to park in the City. Council is being asked to make a finding that there is not a commercial vehicle parking lot available, and the regulations will remain in place. If this action does not take place, truck parking in Lodi will be prohibited.

MOTION:

Council Member Hansen made a motion, Beckman second, to adopt resolution No. 2002-263 acknowledging limited commercial vehicle parking within the City will continue to be permitted.

DISCUSSION:

Mayor Hitchcock expressed opposition to the motion noting that she would prefer the sunset provision be allowed to conclude.

Council Member Land recalled that the original ordinance banned all truck parking in Lodi; however, it was later decided that to prohibit parking without providing ample parking facilities for commercial vehicles was unrealistic. He believed that the current regulations were adequate and should be continued.

Mayor Pro Tempore Howard reported that she had not heard opposition to the current regulations and believed that it would be unreasonable to prohibit all commercial truck parking without an alternative.

Mayor Hitchcock believed that there were problems in some areas. She voiced support for a total ban of truck parking in the City and suggested that the matter be brought to Council on an annual basis for review.

Public Works Director Prima acknowledged that staff occasionally deals with issues regarding where truck parking is allowed. The ordinance and resolution did not specify exact locations, so it was left to staff to work with property owners to establish the areas. Modifications must be made occasionally. Currently staff is considering the area of Thurman Road and Guild Avenue. A survey of enforcement and traffic engineering staff found that the current regulations are working well.

In reply to Mayor Hitchcock, Mr. Prima acknowledged that the number of truck parking spaces are shrinking.

Discussion ensued regarding the action that was being requested of Council under this item, and Council Member Hansen provided clarification by reading the following excerpt from the resolution: "Now, therefore, be it resolved, that the Lodi City Council does hereby acknowledge that no adequate truck parking lot has been developed and that truck parking should be permitted to continue per Lodi Municipal Code section 10.52.050 until such time a lot is developed."

VOTE:

The above motion was carried by a unanimous vote.

MOTION TO CARRY OVER ITEMS

The City Council, on motion of Mayor Pro Tempore Howard, Hansen second, unanimously voted to carry over the following items to the next regular City Council meeting of January 2, 2003:

- I-6 "Adopt resolution amending Traffic Resolution 97-148 approving speed limit reduction on Lodi Avenue between Cherokee Lane and Guild Avenue from 40 to 35 miles per hour"
- I-9 "Adopt resolution authorizing the City Manager to execute a lease renewal agreement for Maple Square Firehouse, 2 East Lodi Avenue"
- I-12 "Review and discussion of Nepotism Policy as established by Resolution 91-78 and incorporated in the City of Lodi Administrative Policy and Procedure Manual"

J. ORDINANCES

None.

K. ADJOURNMENT TO VARIOUS AGENCY MEETINGS

The City Council, on motion of Council Member Hansen, Beckman second, unanimously voted to carry over the following items to the next regular City Council meeting of January 2, 2003:

- K-1 Meeting of the Lodi Public Improvement Corporation
- K-2 Meeting of the Industrial Development Authority
- K-3 Meeting of the Lodi Financing Corporation
- K-4 Meeting of the City of Lodi Redevelopment Agency

L. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Howard recognized new Lodi Association of Realtors President Vicki Jenkins. She stated that Century Assembly Church held its 25th annual Singing Christmas Tree event recently and it was well received. The East Lab at Lodi High School provides computers to students who are now developing programs regarding the traffic impact at the high school area, and another involving Lodi Lake.
- Council Member Hansen asked that Council Appointee evaluations be scheduled for the January 2, 2003 City Council meeting.

Mayor Pro Tempore Howard recalled that Council is usually given a packet in December to begin the annual review process for Council Appointees; following that review there is discussion regarding salary. Ms. Howard noted that she previously mentioned it may be beneficial to conduct the evaluations in March and have the process completed by the end of June.

Council Member Hansen stated that he preferred to begin the process at the next regularly scheduled meeting.

- Council Member Land, on behalf of the Lodi Sister City Committee, stated "Merry Christmas and Happy New Year" in Italian and Japanese.
- Council Member Beckman wished everyone a merry Christmas and happy New Year.

M. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager Flynn announced that Richard Prima's birthday is December 30. He noted that Judge Baysinger's mother recently passed away. He reported that a 3% Cost of Living Adjustment increase for Executive Management employees is scheduled to go in effect the first full pay period in January and believed that the Council Appointees should be treated in an equal manner. He planned to bring the matter back for Council consideration at the next regularly scheduled meeting.

N. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 2:32 a.m., Thursday, December 19, 2002.

ATTEST:

Susan J. Blackston
City Clerk